

**CIVIC ENGAGEMENT WITH HUMAN RIGHTS
COURSE SYLLABUS
IHRE 2011**

COURSE DESCRIPTION

The human rights movement changed the social, political and economic landscape of the twentieth century and its momentum has continued into the twenty-first. The normative force of human rights has been a powerful weapon in the hands of the oppressed and those fighting on their behalf. At the centre of human rights promotion and enforcement are international and domestic civil society actors. Their engagement with human rights through fact-finding, reporting, litigation, lobbying, public education, and standard-setting has been quintessential to the success of the human rights movement.

Despite this remarkable success, the very meaning and definition of human rights remains highly contested. Furthermore, the biggest proponents of human rights-civil society actors-have come under increasing scrutiny. Critics from within and outside of the human rights movement have questioned the accountability and transparency of international and domestic civil society institutions, labeling these institutions elite, special interest groups that are for the most part disconnected from the people on whose behalf they claim to advocate. Critics challenge some of the methods used by these organizations and point to the very real “costs” the success of the human rights movement impose on groups whose causes fall outside of the dominant conceptions of what constituted human rights.

This course will encourage a strategic and critical approach to engagement in human rights grounded in theory but that draws on the students’ practical internship experiences. We will also draw lessons from the successes and failures of civil society’s engagement with human rights using international case studies, and to a great extent, case studies taken from South Africa’s own experiences. The premise of the course is that only through continued, honest and crucial internal reflection can human rights advocates sustain and improve upon the gains they have made in improving the lives of countless people across the globe.

This course will be conducted as a seminar and class participation will play an important role in facilitating the learning process. Students are expected to engage each other during class and to learn as much from each other’s internship experiences as from the course materials and instructors.

Course Instructor: Kimani Ndungu (kimani@naledi.org.za)

Course Meetings: Blocks 3 and 4:
Mon 12:30-13:15 (Section 1: CB149) (Section 2: CB 230)
Thu 08:00-09:45 (Section 1: CB149) (Section 2: G202)
Office hours to be advised

COURSE REQUIREMENTS AND GRADING

- **Reading responses (20%)**

Each student must submit a total of three short reading response papers over the course of the semester. One of these responses must be submitted in the third block, and the remaining two in the fourth block. The purpose of these responses is not to summarise the readings. Instead, they must engage the readings assigned for the chosen week, and take positions either in support of or against the points of view expressed in the readings. Where possible, these responses should draw on the practical experiences of the student's internship experience, and use these to shed light on the reading materials. Students should confine themselves to the assigned readings, and no further research is required. Students may choose to which three class readings they would like to respond, and the response papers are due two days before the class session to which they pertain. Each response should be no more than four pages double-spaced in Times New Roman font, size 12.

- **Mid-term examination (25%)**

The mid-term examination will consist of one or two hypothetical situations that combine factual scenarios taken from contemporary examples of human rights violations. The students will be required to identify creative, strategic responses for how best to promote and protect human rights in those circumstances.

- **Final examination (40%)**

There will be a final examination.

- **Class participation (15%)**

Class attendance is mandatory and a class participation mark will be awarded on the basis of each student's engagement with class discussions. The class presentations discussed below will form part of the class participation mark.

COURSE OUTLINE

***** THIRD BLOCK *****

I. Overview: The Human Rights Movement and its strategies

Monday, 25 July

Course Introduction

Thursday, 28 July - Sources of Human Rights

- International Bill of Rights
 - Universal Declaration of Human Rights
 - International Covenant on Civil and Political Rights [**Selected Articles: Preamble and Articles 2, 3, 6(1), 7,8,9,12,18,19,22,24,26, 28]**]

- International Covenant on Economic, Social and Cultural Rights
[Selected Articles: Preamble and Articles 2, 4, 9,11,13]
- African Charter on Human and Peoples' Rights [Selected Articles: Preamble and Articles 2, 4, 5,6,8,10,11,12,14,17,18,20,22,27,28,29, 30]
- Constitution of the Republic of South Africa [Selected Articles: Preamble and Chapter 2: Bill of Rights]

Monday, 1 August - *The Actors: Human Rights Defenders*

- Office of the United Nations High Commissioner for Human Rights “Who are Human Rights Defenders?”
(<http://www2.ohchr.org/english/issues/defenders/who.htm>)
- Selections from *Speak Truth to Power* (www.speaktruth.org): An Introduction by Kerry Kennedy; Maria Teresa Tula (El Salvador); Van Jones (United States); Kek Galabru (Cambodia); Anonymous (Sudan); Kailash Satyarthi (India)
- Khan, “Lessons from Malcolm X: Freedom by Any Means Necessary” 38 (1) Howard Law Journal 1994, 79 [Selected Pages: 85-87; 124-133] available at http://works.bepress.com/cgi/viewcontent.cgi?article=1061&context=abu_kas_hif
- “House Calls with Pliers”, Faranaaz Parker, The Mail and Guardian, October 23, 2009, available at <http://mg.co.za/article/2009-10-23-house-calls-with-pliers>

Thursday, 4 August - *The Actors: NGOs, Civil Society*

- Shestack, *Sisyphus Endures: The International Human Rights NGO*, 24 New York Law School Law Review 89 (1978-1979) [Selected Pages: 89-90, 95-111]
- Steiner & Alston, INTERNATIONAL HUMAN RIGHTS IN CONTEXT [Selected Pages 1420-1432]
- Carothers, “Civil Society: Think Again Foreign Policy”, Winter 1999-2000, 18 [Selected Pages: 18-22, 27-28] available at <http://www.carnegieendowment.org/pdf/CivilSociety.pdf>

Monday, 8 August - *The Actors: NGOs, Civil Society Continued*

- Glaser, *South Africa and the Limits of Civil Society*, 23(1) Journal of Southern African Studies

Thursday, 11 August - *Introduction to the Criticisms*

- Bukovská, *Perpetrating Good: Unintended Consequences of International Human Rights Advocacy*, (2008) 9 INTERNATIONAL JOURNAL OF HUMAN RIGHTS 7
- Kennedy, “Preface” in *The Dark Side of Virtue: Reassessing International Humanitarianism*, pp. xi-xxvi
- Desai, *Vans, Autos, Kombis and the Drivers of Social Movements*, (2006), available at http://www.wolpetrust.org.za/event_by_city.php?venue=Durban [hand out]
- Dowden, *AFRICA: Altered States, Ordinary Miracles*, (2008) [Selected Pages to be advised- hand out]

II. Strategies of Human Rights Engagement

In this section we explore some of civil society's principle strategies of engagement with human rights internationally and domestically. We look at successful and failed efforts to enforce human rights and through case studies analyse the relative strengths and weaknesses of the various strategies at play.

Practical Assignment

Each section will be given two class sessions in addition to time outside of class to work on a group assignment. For this assignment, students interning at the same organizations will conduct research aimed at identifying the key methods of human rights engagement employed by the organizations with which they are interning. In other words, each group of students will document the principle human rights enforcement, promotion or protection strategies of their host organization. This research should include interviews with relevant members of staff at the host organization, and internet or archival research where appropriate. Each group will then prepare and share their findings with the rest of the class in the form of a handout and scheduled class presentation. Students will be informed of the duration of the presentations before beginning the research.

Fact Finding and Report

Monday, 15 August

SECTION 1: Practical Assignment (Refer to description above)

SECTION 2: Fact-Finding and Reporting, Overview

- Orentlicher, *Bearing Witness: The Art and Science of Human Rights Fact-Finding*, 3 HARVARD HUMAN RIGHTS JOURNAL 83 (1990) [**Selected Pages: 83-108**]
- Hafner-Burton, *Sticks and Stones: Naming and Shaming the Human Rights Enforcement Problem*, 62 INTERNATIONAL ORGANISATION 689 (2008) [**Selected Pages: 700-713**]

Thursday, 18 August

SECTION 1: Practical Assignment (Refer to description above)

SECTION 2: Fact-Finding and Reporting, International Examples

- Welch, "Amnesty International and Human Rights Watch", in *NGOs AND HUMAN RIGHTS: PROMISES AND PERFORMANCE*, Welch (ed.) (University of Pennsylvania Press), pp. 85-118
- Human Rights Watch, "Trail of Death: LRA Atrocities in Northeastern Congo", March 28, 2010 [**Selected Pages: 3-13, 18-24, 45-62**], available at http://www.hrw.org/en/publications/reports?filter0=**ALL**&filter1=96

Monday, 22 August

SECTION 1: Fact-Finding and Reporting, Overview

- Orentlicher, *Bearing Witness: The Art and Science of Human Rights Fact-Finding*, 3 HARVARD HUMAN RIGHTS JOURNAL 83 (1990) [**Selected Pages: 83-108**]
- Hafner-Burton, *Sticks and Stones: Naming and Shaming the Human Rights Enforcement Problem*, 62 INTERNATIONAL ORGANISATION 689 (2008) [**Selected Pages: 700-713**]

SECTION 2: Practical Assignment (Refer to description above)

Thursday, 25 August

SECTION 1: Fact-Finding and Reporting, International Examples

- Welch, “Amnesty International and Human Rights Watch”, in *NGOs AND HUMAN RIGHTS: PROMISES AND PERFORMANCE*, Welch (ed.) (University of Pennsylvania Press), pp. 85-118
- Human Rights Watch, “Trail of Death: LRA Atrocities in Northeastern Congo”, March 28, 2010 [**Selected Pages: 3-13, 18-24, 45-62**], available at http://www.hrw.org/en/publications/reports?filter0=**ALL**&filter1=96

SECTION 2: Practical Assignment (Refer to description above)

Monday, 29 August: Fact-Finding and Reporting, Domestic Examples

- “Submission by the Consortium for Refugee and Migrant Rights in South Africa (CoRMSA) and Lawyers for Human Rights (LHR) to the Special Rapporteur on Refugees, Asylum Seekers, IDPs and Migrants at the 45th Ordinary Session of the African Commission on Human and Peoples’ Rights”, May 2009
- Lawyers for Human Rights, “The Documented Experiences of Refugees, Deportees and Asylum Seekers in South Africa: A Zimbabwean Case Study” April 26 [**Selected Pages: 5-9, 17-32**] available at <http://www.lhr.org.za/publications/report-treatment-zimbabwean-asylum-seekers-2006>

Thursday, 1 September: Fact-Finding and Reporting, Conclusion

- Kenneth Roth, “The Power of Horror in Rwanda” Los Angeles Times, April 11, 2009
- “Rwanda: Surely the Final Say Cannot be in New York”, The New York Times, May 21, 2009

Monday, 5 September: CLASS PRESENTATION OF PRACTICAL ASSIGNMENTS, HOST NGOs' STRATEGIES FOR ENGAGEMENT WITH HUMAN RIGHTS

Thursday, 8 - Sunday, 18 September

Vacation/Study/Research Break

Monday, 12-Thursday, 15 September

Class trip to the Constitutional Court (Concourt) for Oral Hearing. [The visit to the Concourt will take place during one day in the course of this week]

******* FOURTH BLOCK *******

Litigation

Monday, 19 September: Litigation, Overview

- (Regional) Mujuzi, *The Role of Civil Society in Protecting and Promoting Prisoners' Rights Before the African Commission on Human and Peoples' Rights*, 5(3) INTERNATIONAL JOURNAL OF CIVIL SOCIETY LAW, 18 (2007)
- (Domestic) Pieterse, *Possibilities and Pitfalls in the Domestic Enforcement of Social Rights: Contemplating the South African Experience*, 26 HUMAN RIGHTS QUARTERLY (2004) [**Selected Pages: 882-890**]

Thursday, 22 September: MIDTERM TEST IN CLASS

Monday, 26 September: Litigation, Regional Example

- Viljoen, Louw & Lirette, *State Compliance with the Recommendations of the African Commission on Human and Peoples' Rights, 1994-2004* 101 American Journal of International Law 1 (2007)

Thursday, 29 September: Litigation, Regional Examples Continued

- Moravcsick "Explaining International Human Rights Regimes: Liberal Theory and Western Europe", 1(2) European Journal of International Relations, 157 [**Selected Pages: 157-160, 169-173, 178-184**]
- Wachira "African Court on Human and Peoples' Rights: Ten Years on and Still no Justice", Minority Rights Group International Report 2008 [**Selected Pages: 4, 17-25**]

Monday, 3 October: Litigation, Domestic Example

- Lesbian and Gay Rights in South Africa (Case Study)

- *National Coalition for Gay and Lesbian Equality and Others v Minister of Home Affairs*, Excerpts from Judgment (Pages to be advised)
- *Minister of Home Affairs and Others v Fourie and Others*, Excerpts from Judgment (Pages to be advised)
- Dersuit, “The Problem of Identities: The Lesbian, Gay, Bisexual, Transgender and Intersex Social Movements in South Africa”, in VOICES OF PROTEST: SOCIAL MOVEMENTS IN POST-APARTHEID SOUTH AFRICA (Ballard, Habib and Valodia eds.)(2006) [hereinafter “VOICES OF PROTEST”]
- *South Africa: Same-sex marriage bill divides opinion polls*, IRIN News, 18 November 2006
- *It's still not okay to be gay in SA*, Mthethwa, The Star November 23 2008

Thursday, 6 October: *Litigation, Domestic Example*
Right to Water Case Study

- Mazibuko and Others v City of Johannesburg
 - Dugard and Liebenberg, “Muddying the Waters: The Supreme Court of Appeal’s Judgment in the Mazibuko Case”, 10 ESR REVIEW 2 (2009)
 - Applicants’ Heads of Argument [**Selected Pages: 5-23; 150-176**]
 - Judgment of the Constitutional Court [**Selected PARAGRAPHS: [1]-[3], [10]-[18], [44]-[68], [82]-[97], [145]-[165]**]

Monday, 10 October: *Litigation, Conclusions*

- *Treatment Action Campaign v Minister of Health*, Selected Issues from University of Toronto case study document (Read section entitled “Strategy: How the Battle for Nevirapine was won?”)
- “Attacks on the Rule of Law” in *Zimbabwe: human rights in crisis, Shadow Report to the African Commission on Human and Peoples’ Rights*, May 2007

Community Organising

Thursday, 13 October: *Community Organising, TAC*

- Ballard, Habib, Valodia & Zuern, “Introduction: From Anti-Apartheid to Post-Apartheid Social Movements” in VOICES OF PROTEST 1-3, 14-19
- Friedman & Mottiar “Rewarding Engagement?: The Treatment Action Campaign and the Politics of HIV/AIDS” *UKZN Globalisation, Marginalisation and New Social Movements in post-apartheid South Africa project*, Centre for Policy Studies and UKZN (2004) 1-8; 13-33

Monday, 17 October: *Community Organising, Documentary Screening*

- Documentary: WHEN THE MOUNTAIN MEETS ITS SHADOW, on members of the Anti-Eviction Campaign social movement.

Thursday, 20 October: Community Organising, Abahlali baseMjondolo

Note to students: please take a look at the Abahlali website: www.abahlali.org to get a sense of the movement and its strategies.

- Zikode, “We are the Third Force” available at www.abahlali.org/node/17
- Ngiam, “Taking Poverty Seriously: What are the Poor saying and why it matters”, Centre for Public Participation (2006)
- Gibson, *A New Politics of the Poor Emerges from South Africa’s Shantytowns* 43 JOURNAL OF ASIAN AND AFRICAN STUDIES 5 (2008)
- *Abahlali Basemjondolo Movement SA and Another v Premier of the Province of Kwazulu-Natal and Others* (CCT12/09)[ZACC 31; 2010 (2) BCLR 99 (CC) (14 October 2009) (**Selected Pages to be Advised**)

Optional: Pithouse, *Our Struggle is Thought, on the Ground, Running: The University of Abahlali Basemjondolo*

Lobbying and Standard-Setting

Monday, 24 October: International Criminal Court Case Study

- Glasius, “Expertise in the Cause of Justice: Global Civil Society Influence on the Statute for an International Criminal Court”, Global Civil Society, 2002 available at <https://www.lse.ac.uk/Depts/global/Publications/Yearbooks/2001/2002chapter6.pdf>
- Geis & Mundt, “When to Indict? The Impact of International Criminal Indictments on Peace Processes and Humanitarian Action”, The Brookings Institute-University of Bern Project on International Displacement (February 2009)

Thursday, 27 October: International Criminal Court Case Study Continued, African Response

- Du Plessis, “The International Criminal Court and its Work in Africa: Confronting the Myths” ISS Paper 173
- African Union, Press Release Decision on the Meeting of African State Parties to the Rome Statute of the International Criminal Court
- Comfort Ero, “Understanding Africa’s Position on the International Criminal Court” Oxford Transitional Justice Research Working Paper Series 2010
- News article to be assigned

Optional: Alexis Arieff, “International Criminal Court Cases in Africa: Status and Policy Issues” Congressional Research Service 2010

III. Reflections on Civil Society Engagement with Human Rights

Monday, 31 October

- Kennedy, Boundaries in the Field of Human Rights: The International Human Rights Movement: Part of the Problem?, 15 HARVARD RIGHTS JOURNAL 101 (2002)
- Rieff, "The Precarious Triumph of Human Rights, New York Times Magazine, Aug. 8, 1999 in Steiner & Alston at 967-970

Thursday, 3 November

- Course Conclusion (Overview of broad themes)
- Take-home examination begins after class